

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN TIM CALLAHAN**, on February 10, 2005 at 8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Tim Callahan, Chairman (D)
Sen. Trudi Schmidt, Vice Chairman (D)
Sen. Keith Bales (R)
Sen. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. John E. Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Brent Doig, OBPP
Harry Freebourn, Legislative Branch
Shannon Scow, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 2; Department of Justice

CHAIRMAN CALLAHAN called the meeting to order, informing the committee that there are some issues that need to be addressed prior to Executive Action.

Larry Fasbender, Deputy Director of Department of Justice, referred to the alternative funding sources that were explained yesterday. He commented that the Department of Justice (DOJ) supplemental requests total \$2.8 million, but the alternative funding sources identified only total \$2.4 million. He also clarified that some requests that were dropped out of the DOJ budget were also revenue generators for the general fund. He stated that he would like all programs to be funded, but he will list the elected official requests that he recommends cutting if the committee is to stick to the \$2.4 million. He referred to Exhibit 1 for a list of Decision Package (DP) funding.

EXHIBIT(jch33a01)

He began with Program 1, DP 303, Upgrade Victim Service Database, recommending it be eliminated. Next, exempt staff pay raises request can be modified. In Program 29, DP 315, Programmer/Analyst for Information Technology Services, he recommends reducing the request by one analyst, which is a \$139,385 biennial total. The final modification could be in Program 1, DP 301, Tobacco Enforcement FTE, which would be eliminated.

Mr. Freebourn asked Mr. Fasbender if he recommends the committee eliminates these funding requests now, or if he would still like the committee to consider the requests. **Mr. Fasbender** stated he would like the committee to approve all of the programs, but if cuts are to be made, the above programs are the ones he prefers are cut.

Mr. Freebourn added that certain programs have a "Contingent on Passage of certain bills being considered by the legislature" listed in the last column in Exhibit 1. The DOJ may inform the committee that they do have alternative funding for the program and would like the committee to consider passing the DP, contingent on the passing of the bill under consideration.

Mr. Fasbender added that if the bill passes, there is contingency language that will take care of the funding of these DP's if they are not passed in committee.

Mr. Doig explained that the governor's office did not associate revenue with the DP's. The revenue generated by the bill will go into the revenue pool and into the governor's budget.

CHAIRMAN CALLAHAN said that there will be money to fund these DP's because of the unanticipated revenue that was described by Mr. Fasbender. **Mr. Doig** interjected that the license plate fee and pathologist funding that were removed are already used to fund the governor's budget. **Mr. Fasbender** said that these funds should be treated as a side program of the DOJ and part of the DOJ budget because it was part of the required reissue.

SEN. BALES asked what Mr. Fasbender recommends is changed with exempt staff pay raises. **Mr. Fasbender** outlined the issue involved with exempt staff pay raises, responding that ultimately the committee could cut these in half to create extra revenue, with approximately \$32,000 taken out of the total.

REP. HINER has stepped out of the meeting.

EXECUTIVE ACTION ON DEPARTMENT OF JUSTICE

Motion/Vote: **SEN. BALES** moved to APPROVE THE DEPARTMENT OF JUSTICE BASE BUDGET. Motion carried unanimously by voice vote. REP. HINER voted aye by proxy.

Motion/Vote: REP. WITT moved to GLOBALLY APPROVE THE STATEWIDE PRESENT LAW ADJUSTMENTS FOR THE DEPARTMENT OF JUSTICE. Motion carried unanimously by voice vote. REP. HINER voted aye by proxy.

CHAIRMAN CALLAHAN informed the committee that the complete list of DP's, including Governor Martz proposals, Governor Schweitzer Addendums, Elected Official Requests and Requests from others are combined in Exhibit 1. This also shows LFD issues and the Legislative Budget Analysis page number.

Legal Services Division

{Tape: 1; Side: A; Approx. Time Counter: 22.2 - 30}{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.5; Comments: Legal Services Division}

Motion: REP. WITT moved that DECISION PACKAGE 111, MAJOR LITIGATION FUND BIENNIAL APPROPRIATION, BE ADOPTED.

Discussion:

REP. HAWK clarified the motion, ensuring that the majority of the supplemental needed for the request will be included in the form

of the bill and is not being approved today. The committee is now only approving \$11,707 to bring the fee back up to the needed amount. **CHAIRMAN CALLAHAN** confirmed this statement.

Vote: Motion carried unanimously by voice vote. **REP. HINER** voted aye by proxy.

No action was taken on DP 301, Tobacco Enforcement FTE.

{Tape: 1; Side: A; Approx. Time Counter: 24.8 - 30}{Tape: 1; Side: B; Approx. Time Counter: 0 - 7.2; Comments: Discussion on DP 302}

Motion: **SEN. GALLUS** moved that DECISION PACKAGE 302, COMMUNICATIONS ACTIVITIES FTE, BE ADOPTED.

Discussion:

Mr. Freebourn stated that this is one which is contingent and funded by an alternative funding source. He inquired about the source of these funds. **Skip Culver, Administrator of the Centralized Services Division of the DOJ**, replied that this DP is contingent on HB 102.

Motion: **SEN. GALLUS** moved that DECISION PACKAGE 302, COMMUNICATIONS ACTIVITIES FTE, BE AMENDED TO INCLUDE LANGUAGE SPECIFYING THAT DP 302 BE FUNDED CONTINGENT ON PASSAGE OF HB 102.

Discussion:

SEN. BALES asked about the specifics of HB 102. **Mr. Fasbender** explained that HB 102 simplifies a process through which retired highway patrol officers were able to draw money from their retirement fund. More money is generated than necessary in the current system. This bill creates a more direct transfer, creating approximately \$100,000 in additional funding.

SEN. BALES inquired about how this process is related to the Communications FTE. **Mr. Fasbender** responded that it is not directly related. This money is just identified as the source of revenue for the Communications FTE.

Mr. Doig explained that with the passage of HB 102 there will be an additional \$110,00 available every year. However, there will also be a one-time infusion of cash created through the transfer.

CHAIRMAN CALLAHAN questioned Mr. Fasbender on if he has taken into account that this requested FTE is being funded through a one-time expenditure. **Mr. Fasbender** responded that many of these programs will be up for review again in the next biennium because they are funded through one-time expenditures.

SEN. BALES inquired, "If the DOC takes money for Communications FTE from this fund, how is the original purpose funded?" **Mr. Fasbender** stated that previously the money went straight to the general fund. Now this account is funded directly. The end result is a decrease in funds needed for the transfer. The excess revenue will return to the general fund.

CHAIRMAN CALLAHAN voiced concern that the DOC is funding on-going positions with one-time funding. He stated that when the committee comes to DP's with one-time funding, these need to be identified so the committee is aware of the funding source.

Mr. Doig informed the committee that of the alternative funding, at least \$100,000 is on-going revenue. **CHAIRMAN CALLAHAN** asked if the governor's office needs to identify the issues of one-time funding or if there is confidence that on-going funding will be found. **Mr. Doig** pointed to the fee increase of \$1.2 million on-going over the biennium, as well as other fees to explain to the committee what funding is available. **CHAIRMAN CALLAHAN** reiterated that if a program is important it will get approved, but the committee needs to be clear on how they are funded.

Vote: Motion carried 5-2 by voice vote with REPS. BALES and HAWK voting no. REP. HINER voted aye by proxy.

No action was taken on **DP 303, Upgrade Victim Services Database.**

No action was taken on **DP 304 or DP 112, Exempt Staff Pay Raises** until later, when it will be considered globally.

{Tape: 1; Side: B; Approx. Time Counter: 8.5 - 16.5; Comments: Montana Board of Crime Control, Department of Justice Victim Services Discussion}

Motion: **SEN. GALLUS** moved TO REOPEN HB 2 SECTION ON MONTANA BOARD OF CRIME CONTROL.

Discussion:

SEN. GALLUS explained that he wishes to reopen the Montana Board of Crime Control (MBCC) section for the purpose of transferring

the FTE that supports the Victims of Crime Act (VOCA) to the DOJ's Office of Victim Services. **SEN. GALLUS** believes it would benefit both agencies to work together because they work for similar purposes but still maintain separate staff. He believes the state can save up to \$150,000 in administrative costs by moving this FTE.

Mr. Fasbender noted that these are complimentary positions. They used to be combined until the Victim's Services was transferred to the MBCC a number of years ago. However, he does not know much about the specifics of either position.

SEN. GALLUS stated that there are 42 different programs that are administered within Victim's Services so definite savings that would be accrued are hard to pinpoint. He emphasized that he has talked with a number of people about this transfer, and believes it would be supported.

SEN. BALES declared that he wants to know more about the relationship between the two positions before the committee begins to move around positions. **CHAIRMAN CALLAHAN** agreed that he wants to hear more about what other purposes the FTE's also serve.

SEN. GALLUS withdrew the motion until more information is gathered.

Gambling Control Division

{Tape: 1; Side: B; Approx. Time Counter: 16.5 - 27.8; Comments: Gambling Control Division}

Motion: **SEN. SCHMIDT** moved that DECISION PACKAGE 3, ACCOUNTING/REPORTING SYSTEM, BIENNIAL/ONE-TIME-ONLY, CONTINGENT ON PASSAGE OF HB 89, BE ADOPTED.

Discussion:

Mr. Freebourn explained that the LFD prefers the committee does not make the DP contingent on a bill in the motion, except in elected official proposals that have a specific funding source.

CHAIRMAN CALLAHAN declared that the committee needs to consider if they want the program even if the bill does not pass.

Mr. Freebourn distributed Exhibit 2, which has draft language as advised by the Legislative Fiscal Division (LFD) concerning the Gambling Control Division.

EXHIBIT(jch33a02)

REP. HINER has returned to the meeting.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 3 BE AMENDED TO EXCLUDE CONTINGENCY LANGUAGE AND TO INCLUDE THE LANGUAGE AS STATED IN EXHIBIT 2.

Discussion:

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 3, ACCOUNTING/REPORTING SYSTEM, BIENNIAL, ONE-TIME-ONLY, BE ADOPTED AS AMENDED. Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 4, GAMBLING CONTROL DIVISION ADJUSTMENTS TO BASE, BE ADOPTED.

Discussion:

CHAIRMAN CALLAHAN responded to a concern of REP. HAWK's, informing the committee that the amount shown in Exhibit 1 has already been reduced by \$31,000.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 5, LAB MACHINE TESTING, BE ADOPTED.

Discussion:

REP. WITT asked about the specifics of HB 204, of which this DP is contingent. **Gene Huntington, Gambling Control Division**, explained this bill was created because testing fees fluctuated. This bill eliminates the statutory appropriation.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 6, AUTHORITY TO PAY ID BUREAU, BE ADOPTED. Motion carried unanimously by voice vote.

Motor Vehicle Division

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 12.8; Comments:
Motor Vehicle Division}*

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 8, FIELD OPERATIONS BUREAU BASE ADJUSTMENT, BE ADOPTED. Motion carried 5-2 by voice vote with REPS. HAWK and WITT voting no.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.9; Comments:
Explanation of DP 10, Motor Vehicle Division}*

Motion: REP. WITT moved that DECISION PACKAGE 10, INTEREST DUE ON \$4.5 MILLION, BIENNIAL, BE ADOPTED.

Discussion:

REP. WITT inquired, "What is 'reduced with cushion?,' " referring to Exhibit 1, Page 1.

Mr. Freebourn asked the department to respond to this LFD issue, which is that they believe the request is too much. Mr. Fasbender stated that the DOJ wanted to create a cushion to make sure the department is not short money with the supposed hike in interest rates that will occur this year. He then discussed debt service reductions that will total approximately \$800,000 in state special revenue. Mr. Freebourn then explained to the committee how the department arrived at the \$210,000.

*{Tape: 2; Side: A; Approx. Time Counter: 2 - 3.3; Comments: See
tape for explanation of DP 10 financing}*

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 11, ISSUE NEW PLATES DELIVERY COST, ONE-TIME-ONLY, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 36, TITLE & REGISTRATION BUREAU BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 37, INTEREST DUE ON \$18 MILLION, RESTRICTED AND BIENNIAL, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. WITT moved DECISION PACKAGE 121, ELIMINATE ORGAN DONOR REGISTRY, DECISION PACKAGE 123, WORKFORCE BACKFILL - TEAM 261, DECISION PACKAGE 124, REDUCE FIELD OPERATIONS, DECISION PACKAGE 125, REDUCE RECORDS/DRIVERS CONTROL, AND DECISION PACKAGE 126, REDUCE TITLE AND REGISTRATION, BE ADOPTED. Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 12, AUTHORITY TO SPEND WEB SITE FEES, BIENNIAL, BE ADOPTED.

Discussion:

Mr. Freebourn pointed to Page D-33 of the Legislative Budget Analysis for an explanation. He stated that the DOJ charges a fee for individuals to access this web base. This is an appropriation to spend these fees on web maintenance.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 306, FTE TO SUPPORT PATRIOT ACT, ONE-TIME-ONLY, BE ADOPTED, AND THAT THIS DP BE CONTINGENT UPON PASSAGE AND APPROVAL OF HB 102

Discussion:

CHAIRMAN CALLAHAN noted that this DP is contingent on HB 102. He asked, "Is this part of the refinancing?" Mr. Fasbender replied that this is a one-time-only (OTO) appropriation as part of the DOJ refinancing.

Vote: Motion carried 6-1 by voice vote with REP. HAWK voting no.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 127, STATEWIDE FTE REDUCTION, BE ADOPTED. Motion carried unanimously by voice vote.

Victim's Services of DOJ and MBCC

{Tape: 2; Side: A; Approx. Time Counter: 12.8 - 24.6; Comments: Victim Services Discussion}

SEN. GALLUS noted that Matt Dale, Administrator of Office of Victim's Services, is now present and asked to return to the earlier motion concerning the Victim Services of the DOJ and Montana Board of Crime Control (MBCC). The motion to open up the MBCC was made for the purpose of moving the Victim's Assistance FTE at MBCC to the Office of Victim's Services at DOJ. He asked

Mr. Dale to explain if he believes this move would benefit or restrict Victim's Services.

Matt Dale, Administrator of the Office of Victim's Services, DOJ, explained Wendy Sturn of the MBCC administers the VOCA grant, which includes 64 sub-grants. He noted that 5% of the VOCA funds are for administrative costs, totaling \$150,000. He stated that in many states the two programs under consideration are cooperative. Formerly in Montana, both programs were under the MBCC. He believes there are many similarities between the programs and thinks it is beneficial to put them back together.

CHAIRMAN CALLAHAN asked, "If grant administration is the mission of MBCC, should everything be back under the MBCC?" **Mr. Dale** responded that the Office of Victim's Services also administers grants. The MBCC has the financial team to monitor these grants, but so does the DOJ.

REP. WITT inquired about the rationale when the Office of Victim's Services was moved to the DOJ. **Mr. Dale** said that Attorney General Mike McGrath wanted more influence on the Victim's Compensation Program. **Mr. Fasbender** explained that the Attorney General thought the program would be more effective under the DOJ because it would have greater visibility and able to get money faster. **REP. WITT** asked if this was still the case. **Mr. Dale** replied that the Attorney General still wants the Office in the DOJ and that collections have improved since the office has been in with the DOJ.

CHAIRMAN CALLAHAN indicated that there is a difference between direct services and administering grants and that the two purposes do not necessarily belong together. He then suggested the committee put off the decision until tomorrow so the committee can speak to Roland Mena of the MBCC. **SEN. GALLUS** added that this will give the DOJ time to come up with the figures pertaining to administration costs.

Highway Patrol

{Tape: 2; Side: A; Approx. Time Counter: 24.8 - 30}{Tape: 2; Side: B; Approx. Time Counter: 0 - 10.5; Comments: Highway Patrol}

Motion/Vote: **REP. HAWK** moved that DECISION PACKAGE 13, OPERATIONS BASE ADJUSTMENT, BE ADOPTED. Motion carried 6-1 by voice vote with **REP. WITT** voting no.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 14, MCSAP BASE ADJUSTMENT, BE ADOPTED.

Discussion:

REP. WITT asked Mr. Freebourn, "If this DP does not pass would it reduce DP 136 by the amount indicated under DP 14?" **Mr.**

Freebourn explained that the statement by REP. WITT is correct. He stated that DP 136 will transfer the MCSAP program and all of it's incremental adjustments to the Department of Transportation. If the bill does not pass it will remain in the DOJ.

Vote: Motion carried 6-1 by voice vote with REP. WITT voting no.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 38, RECRUIT SCHOOL BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 132, PRISONER PER DIEM, BIENNIAL, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 15, MCSAP NEW ENTRANT PROGRAM, BE ADOPTED. Motion carried unanimously by voice vote.

{Tape: 2; Side: A; Approx. Time Counter: 29 - 30.5}{Tape: 2; Side: B; Approx. Time Counter: 0 - 9.5; Comments: DP 135 Discussion}

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 135, RESTORE VACANCY SAVINGS, BE ADOPTED.

Discussion:

Through lengthy discussion, the committee established the following concerning DP 135:

***Mr. Freebourn** explained that no matter what action is taken, HB 35 will determine the funding of this DP. The committee can take action now on the appropriation or wait for the bill to determine the funding.

***CHAIRMAN CALLAHAN AND SEN. BALES** voiced concern that this DP along with the bill would cause a double appropriation. **Mr. Freebourn** assured the committee that the LFD would make sure there was not a double appropriation.

***Mr. Freebourn** explained the options on which action the committee could take; The first option is to withdraw the motion and take no action. The second option is to pass, meaning that vacancy savings will be restored no matter what happens. The third option is to move the DP and not pass it, which means the LFD will restore the funding if the bill passes.

***SEN. BALES** stated the committee should approve this DP if they want to look at the issue of vacancy savings with the Highway Patrol. **Mr. Fasbender** explained HB 35 will allow the Highway Patrol to be exempt from vacancy savings, allowing them to spend the money elsewhere.

***CHAIRMAN CALLAHAN** inquired about LC 1898, referring to the DP explanation on Exhibit 1. **Mr. Fasbender** explained LC1898 is the transfer of MCSAP to the Department of Transportation.

***CHAIRMAN CALLAHAN** advised the committee that the DOJ ultimately does need the appropriation so there is proper appropriation authority.

Vote: Motion carried 6-1 by voice vote with REP. WITT voting no.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 136, TRANSFER MCSAP TO DEPARTMENT OF TRANSPORTATION, BE ADOPTED.
Motion carried unanimously by voice vote.

Division of Criminal Investigation

{Tape: 2; Side: B; Approx. Time Counter: 10.5 - 30}{Tape: 3; Side: A; Approx. Time Counter: 0 - 4.2; Comments: Division of Criminal Investigation}

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 18, LAW ENFORCEMENT ACADEMY BASE ADJUSTMENT, BE ADOPTED.

Discussion:

Mr. Freebourn clarified that there was an LFD issue that not enough funds were available, but the recent audit corrected the faulty administration of funds. There is no longer an LFD issue because sufficient funds are available.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 308, MLEA STORE, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 19 AND DECISION PACKAGE 309, MILES CITY NARC REGIONAL AGENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 20, VEHICLE REPLACEMENT PROGRAM, BE ADOPTED. Motion carried unanimously by voice vote.

{Tape: 2; Side: B; Approx. Time Counter: 15.8 - 26; Comments: Medicaid Fraud Program and Agent DP's}

Motion: REP. HINER moved that DECISION PACKAGE 21 AND DECISION PACKAGE 310, MEDICAID FRAUD PROGRAM, AND DECISION PACKAGE 311, MEDICAID FRAUD AGENT, BE ADOPTED.

Discussion:

Upon further discussion the committee chose to handle these DP's separately, due to different restrictions needed for DP 310 and DP 311.

REP. HINER withdrew her motion without objection.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 21 MEDICAID FRAUD PROGRAM, BE ADOPTED. Motion carried 6-1 by voice vote with REP. HAWK voting no.

Motion: REP. HINER moved that DECISION PACKAGE 310, MEDICAID FRAUD PROGRAM, AND DECISION PACKAGE 311, MEDICAID AGENT, ONE-TIME-ONLY, BE ADOPTED.

Discussion:

SEN. BALES asked about the specifics of DP 311. Mr. Fasbender explained that DP 310 is the state match for the first year of Medicaid Fraud Program funding. DP 311 is to add a medical fraud agent.

REP. HINER withdrew her motion without objection.

Motion/Vote: REP. HINER moved that DECISION PACKAGE 310, MEDICAID FRAUD PROGRAM FY06 FUNDING, ONE-TIME-ONLY, BE ADOPTED. Motion carried 6-1 by voice vote with REP. HAWK voting no.

Motion: REP. HINER moved that DECISION PACKAGE 311, MEDICAID FRAUD AGENT, ONE-TIME-ONLY, AND CONTINGENT ON HB 102 BE ADOPTED.

Discussion:

SEN. BALES said Mr. Fasbender had indicated that there was a federal match for money on DP 310. He inquired if there was the same match for DP 311. **Mr. Fasbender** confirmed this match.

SEN. BALES commented that a person will be hired on one-time-only money. He inquired, "What will happen in two years?" **Mr. Fasbender** replied that in two years the legislature would have to decide to continue funding or withdraw the FTE.

SEN. SCHMIDT that there is currently one FTE and this is a request for one more FTE.

CHAIRMAN CALLAHAN commented that any funds recovered through this agent go back to the Department of Health and Human Services (DPHHS). This money should be tracked so a report can be made on the effectiveness of the program. He stated that there is no way to fund this agent out of Medicaid or DPHHS money. **Mr. Fasbender** confirmed this statement.

Vote: Motion carried 4-3 by voice vote with REPS. BALES, HAWK, and WITT voting no.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 22, DIVISION OF CRIMINAL INVESTIGATION BASE ADJUSTMENT, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 312, DIVISION OF CRIMINAL INVESTIGATION BASE ADJUSTMENT FOR FY06, ONE-TIME-ONLY, CONTINGENT ON HB 102, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 181, WELFARE FRAUD - REMOVE ONE FTE, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 16, HOMELAND SECURITY FTE, BE ADOPTED. Motion carried unanimously by voice vote.

SEN. GALLUS asked for an update on Byrne Drug Task Force funding, which involves DP 17 and DP 313. **Mr. Freebourn** pointed to Exhibit 1, Page 5, which shows that DP 313 is a funding switch.

DP 17 was submitted by Governor Martz prior to information on the reduction of the fund. If DP 313 is passed, the committee should ignore DP 17 or funds will be doubled.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 313 CONTINGENT ON HB 102 LC 1683, BE ADOPTED. Motion carried unanimously by voice vote.

No action is taken on DP 17.

County Attorney Payroll

{Tape: 3; Side: A; Approx. Time Counter: 4.6 - 17.2; Comments: County Attorney Payroll Discussion}

Motion: SEN. GALLUS moved that DECISION PACKAGE 23, INCREASE STATE'S FUNDING, BE ADOPTED.

Discussion:

Mr. Fasbender explained that DP 23 covers the initial estimate for the state's 50 percent of county attorney payroll. This estimate was determined before the DOJ got the county estimates. The disparity between the two figures is covered in DP 318. Therefore, both DP 23 and DP 318 are needed to fulfill the state's obligation. The salary comparisons without benefits included are seen in Exhibit 3.

[EXHIBIT\(jch33a03\)](#)

Doug Booker, Administrator of the Centralized Services Division, explained that Exhibit 3 shows the Montana Association of Counties (MACo) estimate versus what the state is currently paying.

Harold Blattie, Assistant Director of MACo, stated that the counties still pick up additional costs of benefits with the MACo proposal. He is asking for full budget authority so adjustments can be made when county pay increases.

Doug Booker added that the state cannot pay more than 50 percent by law, so the figures shown in Exhibit 3 is the maximum the state would pay.

Mr. Blattie gave a history of the salary obligations, emphasizing that the most significant salary adjustments are behind the organization. A number of counties have no money for raises in salaries, so pay will become frozen.

REP. WITT asked if the committee was looking at at least \$163,000 a year. **Mr. Booker** explained that the number given makes up the difference between the two figures, plus errs on the side of caution. The figures on Exhibit 1, Page 2 are correct for DP 23. For DP 318 it should be \$103,365 in FY06 and \$151,095 in FY07 for a true 50 percent.

SEN. GALLUS clarified that the committee is now voting on DP 23.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: **REP. WITT** moved that DECISION PACKAGE 318, ADDITIONAL INCREMENTAL FUNDING ABOVE STATE FUNDING WITH \$103,365 IN FY06 AND \$151,095 IN FY07, BE ADOPTED. Motion carried 6-1 by voice vote with **REP. GALLUS** voting no.

SEN. SCHMIDT noted that these figures just passed raised the earlier estimates of DP 318 by just \$7,000.

Information Technology Services

Motion/Vote: **REP. WITT** moved that DECISION PACKAGE 24, SECURITY/DISASTER RECOVERY FTE, BE ADOPTED. Motion carried unanimously by voice vote.

{Tape: 3; Side: A; Approx. Time Counter: 19.8 - 27.9; Comments: Transfers from Contract Services to FTE}

CHAIRMAN CALLAHAN informed the committee that the next four DP's are transfers from contract services. **Mr. Freebourn** stated that people are currently doing contract work but the department is requesting that they become permanent positions. If this DP passes, money needs to be moved to personnel services in order to fund the positions. **Mr. Doig** added that the governor's office agrees that these positions will be needed on a permanent basis.

SEN. BALES inquired why the cost would go down in FY07. **Mr. Freebourn** responded that the figure shown is for both operating costs and for personnel services. **Mr. Fasbender** added that there is a start-up cost, plus a slight hour differential due to a leap year.

SEN. BALES asked, "What is happening to the extra money that is gained with the transfer?" He inquired if another FTE would be funded with this money. **Mr. Fasbender** replied that another FTE will be added.

REP. WITT asked if these transfers would be in-house transfers. **Mr. Fasbender** replied that some people that currently contract out their services in-house may want to go for a full-time position for the job security.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 25, PROGRAMMER/ANALYST TRANSFER, DECISION PACKAGE 26, DATA BASE ANALYST TRANSFER, DECISION PACKAGE 27, BUSINESS SYSTEMS ANALYST TRANSFER, AND DECISION PACKAGE 28, SYSTEMS PRODUCTION SUPPORT TRANSFER, BE ADOPTED. Motion carried 6-1 by voice vote with REP. HAWK voting no.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 29, FBI BACKGROUND CHECKS, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DECISION PACKAGE 291, LOSS OF FEDERAL FUNDING FOR FTE, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 292, WORKFORCE BACKFILL FOR TEAM 261, BE ADOPTED. Motion carried unanimously by voice vote.

Motion: SEN. GALLUS moved that DECISION PACKAGE 316, REINSTATE FTE REDUCTION, BE ADOPTED.

Discussion:

Mr. Freebourn explained that DP 316 and DP 293 negate each other. **Mr. Fasbender** added that the Governor's request was in a statewide FTE reduction to be taken from the general fund. DP 316 reinstates this FTE in state special revenue.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that DECISION PACKAGE 293, STATEWIDE FTE REDUCTION, BE ADOPTED. Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 315, PROGRAMMER/ANALYST, BE ADOPTED.

Discussion:

CHAIRMAN CALLAHAN informed the committee that this is a DP which is funded by one-time funds. **Mr. Fasbender** stated that this is

contingent on HB 102. This is the DP which was recommended might be cut if there are to be cuts to the DOJ DP's. Reducing this request by one FTE reduces the total by \$135,385 for the biennium.

Substitute Motion: SEN. GALLUS made a substitute motion that DECISION PACKAGE 315 BE REDUCED FROM \$213,609 TO \$142,406 IN FY06 AND FROM \$213,448 TO \$136,361 IN FY07, FOR A TOTAL APPROPRIATION OF \$278,767 OVER THE BIENNIUM, ONE-TIME-ONLY, CONTINGENT UPON HB 102, BE ADOPTED.

Discussion:

Mr. Freebourn explained that when entering this motion it will have to be reduced by one FTE rather than the lump sum, so he will subtract an FTE from the original request and hopefully hit this number.

CHAIRMAN CALLAHAN called for a vote on the substitute motion.

Vote: Motion carried unanimously by voice vote.

Forensic Science Division

{Tape: 3; Side: B; Approx. Time Counter: 6.7 - 13.2; Comments: DP 30, Rent Increases Discussion}

Motion: SEN. SCHMIDT moved that DECISION PACKAGE 30, RENT INCREASE, BE ADOPTED.

Discussion:

Mr. Freebourn reminded the committee of discussion concerning an interim committee that would look at the continuation of the rental agreement or the potential for purchasing the facility.

SEN. GALLUS inquired what the Forensic Science Division is paying for rent. Mr. Fasbender replied they are paying approximately \$44,000 a month in rent.

SEN. SCHMIDT withdrew her motion.

Motion/Vote: REP. HAWK moved that DECISION PACKAGE 30, RENT INCREASE, WITH DIRECTION FOR THE DEPARTMENT TO PROVIDE AN ECONOMIC STUDY OF A BUY/LEASE ANALYSIS REPORTED TO THE FIRST LEGISLATIVE FINANCE COMMITTEE'S FIRST MEETING AFTER JULY 1, 2005,

BE ADOPTED. Motion carried 6-1 by voice vote with REP. WITT voting no.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 31, CHEMIST, DECISION PACKAGE 32, SEROLOGIST/DNA, DECISION PACKAGE 34, TOXICOLOGIST, AND DECISION PACKAGE 35, PATHOLOGIST, BE ADOPTED. Motion carried unanimously by voice vote.

Motion: REP. WITT moved that DECISION PACKAGE 321, REDUCE FTE, BE ADOPTED.

Discussion:

SEN. GALLUS asked what the Division had been doing to compensate for the loss of an FTE. **Mr. Fasbender** replied that the money was never received so they were unable to fill the position.

SEN. GALLUS expressed concern about a robbery in his district, in which evidence was not taken at the crime scene because the theft was under \$20,000. **Mr. Fasbender** responded that the crime lab processes what they are presented in due time. There is no value statement and it doesn't matter if a crime scene is under a certain amount of money.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. SCHMIDT moved that PL 111, TOXICOLOGIST, BE ADOPTED.

Discussion:

Mr. Fasbender explained that originally this FTE was only funded one year. This Governor Schweitzer addendum is for funding the other year of the biennium and an additional FTE.

SEN. SCHMIDT asked, "Why is another toxicologist needed?" **Bill Unger, Administrator of the Forensic Science Division**, replied that within the toxicology section there is a growing number of cases, but the last FTE increase was in 1991. One FTE will fulfill this need. The other FTEs are for lab technicians whom are funded at a lower cost and used to process results.

Vote: Motion carried unanimously by voice vote.

Exempt Staff Pay Raises

***{Tape: 3; Side: B; Approx. Time Counter: 21 - 30; Comments:
Exempt Staff Pay Raise Discussion}***

The committee returned to the global DOJ issue of exempt staff pay raises.

Motion: SEN. GALLUS moved that DECISION PACKAGE 317 AND LIKE DPS CONCERNING EXEMPT STAFF PAY RAISES, AND DECISION PACKAGE 322 AND LIKE DPS CONCERNING EXEMPT STAFF PAY RAISE REDUCTION, BE ADOPTED.

Discussion:

Mr. Freebourn stated that the two DP's offset one another; therefore, the committee needs to take action on one or the other.

CHAIRMAN CALLAHAN said he would like to know the policy issue underlying exempt staff pay raises. He added that if these DP's are ignored, the raises will be implicitly given.

Mr. Doig explained that the raises will automatically be funded within the system. The purpose behind Governor Martz's proposal is to find another funding source.

SEN. BALES asked, "If the committee does nothing, will the raises go into the base?" **Mr. Doig** responded that no matter what, the raises will be in the base.

SEN. BALES inferred that if DP 322 is passed as well as DP 317 one-time-only, then it would have to be re-evaluated. **Mr. Doig** explained the system will continue to fund the positions, no matter what action is taken.

Motion/Vote: SEN. GALLUS moved that THE MOTION CONCERNING EXEMPT STAFF PAY RAISES BE TABLED. Motion carried unanimously by voice vote.

Motion/Vote: REP. HAWK moved that DECISION PACKAGE 322 AND LIKE DECISION PACKAGES CONCERNING EXEMPT STAFF PAY RAISE REDUCTIONS, BE ADOPTED. Motion carried unanimously by voice vote.

Language

Mr. Freebourn referred to Page D-39 in the Legislative Budget Analysis, for an explanation of the language concerning the Highway Patrol Pension Fund. HB 102, if passed, will make this process automatic.

Motion/Vote: SEN. BALES moved TO APPROVE LANGUAGE TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE HIGHWAY PATROL RETIREMENT CLEARING ACCOUNT TO THE MONTANA HIGHWAY PATROL PENSION FUND. Motion carried unanimously by voice vote.

Rates Charged by Agency Legal Services

{Tape: 4; Side: A; Approx. Time Counter: 3.1 - 15.6; Comments: Rates charged by Agency Legal Services}

Doug Booker presented the committee with the proposed rate increases for Agency Legal Services.

Motion: SEN. GALLUS moved that RATE INCREASES OF \$75 AND \$44 IN FY06 AND \$77 AND \$46 IN FY07 AS PROPOSED BY THE DEPARTMENT OF JUSTICE, BE ADOPTED.

Discussion:

CHAIRMAN CALLAHAN expressed concern on raising rates when other budgets have been approved based on current rates. **Mr. Freebourn** added that the current rates are \$71.80 for attorneys and \$39.80 for investigators. He stated that the committee can approve the current rates and let the DOJ fix their deficit through other means, or the committee can approve the raise to help the DOJ with their funding shortfall. The Governor recommends the committee approve the current rates, as were budgeted.

Substitute Motion: REP. WITT made a substitute motion TO KEEP RATES CURRENT AT \$71.80 FOR ATTORNEYS AND \$39.80 FOR INVESTIGATORS, BE ADOPTED.

Discussion:

REP. HAWK expressed concern that raising rates will cause other departments to search for funding for the new rates. **Mr. Freebourn** replied that if this increase is done early enough budgets can get re-approved taking into account the new rates. If budgets are not able to get re-approved, they will have to reallocate funds.

Mr. Booker stated when a department uses Agency Legal Services they never know how long the services will be needed; therefore definite amounts are never determined in the budget. He added that the rate increases gets the DOJ out of the hole for Agency Legal Services. If the rates are not increased they may be unable to survive due to loans.

REP. WITT and SEN. GALLUS WITHDRAW THEIR EARLIER MOTIONS without objection.

Motion: REP. WITT moved to APPROVE RATES AS STATED IN HIS EARLIER SUBMOTION.

Discussion:

Mr. Booker distributed Exhibit 4, which proposes smaller rate increases than originally proposed. This will help smaller agencies with their budget and will help the DOJ nearly break even.

EXHIBIT(jch33a04)

Substitute Motion/Vote: SEN. GALLUS made a substitute motion that A RATE INCREASE OF \$44 PER HOUR FOR INVESTIGATORS IN FY06 AND \$74 PER HOUR FOR ATTORNEYS AND \$46 FOR INVESTIGATORS IN FY07, BE ADOPTED. Substitute motion carried unanimously by voice vote.

Exempt Staff Pay Raises

{Tape: 4; Side: A; Approx. Time Counter: 15.9 - 27.7; Comments: Exempt Staff Pay Raises, Continued Discussion}

Motion: SEN. GALLUS moved that DECISION PACKAGE 317 AND LIKE DECISION PACKAGES CONCERNING EXEMPT STAFF PAY RAISE, BE ADOPTED.

Discussion:

Mr. Freebourn stated that he prefers the committee negates the previous motion.

SEN. GALLUS WITHDREW HIS MOTION WITHOUT OBJECTION.

Motion/Vote: SEN. GALLUS moved reconsider the action ON DECISION PACKAGE 322 AND LIKE DECISION PACKAGES CONCERNING EXEMPT STAFF PAY RAISE REDUCTIONS. Motion carried 4-3 by voice vote with REPS. HAWK, SCHMIDT, and WITT voting no.

Motion: REP. HAWK moved that DECISION PACKAGE 322, EXEMPT STAFF PAY RAISE REDUCTION, BE ADOPTED.

Discussion:

Mr. Freebourn pointed to Page D-9 of the Legislative Budget Analysis in response to a request by SEN. BALES for a complete list and total dollar amount of exempt staff pay raises.

Motion/Vote: SEN. GALLUS moved that DECISION PACKAGE 322 AND LIKE DECISION PACKAGES CONCERNING EXEMPT STAFF PAY RAISE REDUCTIONS, BE TABLED. Motion failed 2-5 by voice vote with REPS. CALLAHAN and GALLUS voting aye.

SEN. BALES asked, "What affect would the exempt staff pay raises have on the general fund, state special revenue and proprietary funds?"

{Tape: 4; Side: A; Approx. Time Counter: 23 - 25; Comments: Reply by Mr. Fasbender regarding impact on funds}

Mr. Fasbender explained the impact on each fund for each division, stating that the bottom line is that the divisions would make up the funds in some way. The biggest concern is in the general fund.

Vote: Motion carried 5-2 by voice vote with REPS. HAWK and WITT voting no.

Motion/Vote: SEN. GALLUS moved that TO CLOSE THE SECTION ON THE DEPARTMENT OF JUSTICE. Motion carried unanimously by voice vote.

Exhibit 5 was distributed to the committee for further information on the Department of Justice.

EXHIBIT(jch33a05)

ADJOURNMENT

Adjournment: 11:40 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch33aad0.TIF](#))